



PLANNING COMMISSION REGULAR SESSION AGENDA
Monday, September 12, 2016 - 7:00 PM
City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER AND ROLL CALL

2. APPROVAL OF MINUTES

2.A. Approval of the Planning Commission work session and regular session meeting minutes of August 8, 2016, and the work session meeting minutes of August 22, 2016.

[Draft Minutes-PC Work Session 8-8-16.pdf](#)

[Draft Minutes-PC Reg Session 8-8-16.pdf](#)

[Draft Minutes-PC Work Session 8-22-16.pdf](#)

3. CITIZENS/PUBLIC COMMENT

A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

4. ACTION ITEMS

5. PUBLIC HEARINGS

- 5.A. File No. 3-CUP-16.** A request submitted by William Wen & Kyle Low for approval of a conditional use permit per Section 14.03.070(8)(a)/"Commercial and Industrial Uses/Manufacturing and Production/Light Manufacturing" of the Newport Zoning Ordinance in order to operate a recreational marijuana grow facility at 1240 N Grove Street (Jim & Carol Ruggeri, owners). The subject property is located in a C-3/"Heavy Commercial" zone where manufacturing and production (i.e. growing) is permitted as a light manufacturing activity following the issuance of a conditional use permit.

[File 3-CUP-16 Staff Report-with-Attachments.pdf](#)

[File 3-CUP-16 Final Order and Findings.pdf](#)

6. NEW BUSINESS

7. UNFINISHED BUSINESS

8. DIRECTOR COMMENTS

9. ADJOURNMENT

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room A
August 8, 2016
6:00 p.m.

Planning Commissioners Present: Jim Patrick, Lee Hardy, Rod Croteau, Bob Berman, Bill Branigan, and Jim Hanselman.

Planning Commissioners Absent: Mike Franklin (*excused*).

PC Citizens Advisory Committee Members Present: Karmen Vanderbeck.

PC Citizens Advisory Committee Members Absent: Dustin Capri (*excused*) and Bob Heida.

City Staff Present: Community Development Director (CDD) Derrick Tokos and Executive Assistant Wanda Haney.

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:01 p.m.

2. **Unfinished Business.**

A. **Status of the Visioning process.** Tokos said that he wanted to bring this back because it's been a while. He thanked Patrick who had served on that work group. Patrick asked if that committee was done. Tokos said that he expects the City Council will want to form an advisory committee, and he expects that it will become a standing committee. He noted that there had been a stakeholders group pulled together for evaluating the RFPs. Through several rounds of interviews, a recommendation to hire HDR was made. Tokos had included HDR's proposal in the meeting packet. Staff will meet with them later in the month for scope refinement. He will be looking to start to pin down the schedule; how many different outreach initiatives they are prepared to staff, how many times will they be out here, what type of outreach – surveys or mailers. This process is to engage people, get their thoughts, and put it in an organized framework. It's not just Newport; it's greater Newport. Tokos has hired a planner who will start part-time October 1st. She will help with the outreach. Berman said that if this is greater Newport, maybe the County could help pay for this. Tokos doesn't know that they are interested in doing that. It's not something they initiated. He doesn't know if anybody has conveyed what the County gets out of it for their investment. Patrick said the group decided it needs to be greater Newport. If it's just the city limits, it didn't take in what it needed to. Some things even include Toledo, and he thought you're not going to get them to buy into this. But the committee thought it should be the general area of Newport, not just inside the city limits. Tokos said the committee landed on aligning with the census boundary for trend analysis. Tokos noted that we will have to rebuild the schedule because it's totally off at this point. It took longer to get to the point where a firm was selected. We will be talking to HDR about that in mid-August as well. Tokos wanted to bring this to the Commission's attention to get feedback on what the Commissioners feel about HDR's proposal or the process. He asked if the Commissioners had any specific thoughts.

Hardy asked Tokos if he could define vision; what does that mean in this context? Tokos said really it's where do you see this community in 2040. What do we want it to look like? Hardy asked, physically? Tokos said that's part of it; but there are broader elements. What makes quality of life for you? For some people it will be arts, for others it will be education, or still others the quality of sidewalks because of mobility. Hardy said there are a lot of different components. What the city looks like might be better expressed as how it should evolve. Tokos said the general way to look at it is what's your vision in 2040; what's your ideal. Hardy asked if the city runs the risk of becoming exclusionary to certain types of development; is that a factor? Tokos didn't think so. He gave an example that our vision is that we want a walkable downtown. Then we need to figure out what's our strategy for achieving that. We outline specific actions. Is a corridor how to handle 101 for the long-term? You already have a downtown situated around the 101 corridor. Hardy said, it's already walkable. But what does walkable mean? Tokos said he doesn't know that we will get specifics out of the vision and strategies. It's more about the area we need to probe, further explore, and then get into the weeds. Berman said it's almost like the priorities of the City Council; it's what are they, not how to achieve things. Patrick said we have the Comprehensive Plan that we follow, which tells us you can do this, or you can't do that. Like on the Bayfront things have to be water-related. For the vision, we need an outline of where we're going with this stuff. He thought there were times when the Planning Commission has had to make things up as we go, so it would be good to have this framework. He said we've had things like the mother-in-law apartment, ADUs, Nye Beach stuff, and the South Beach Plan where it would have been nice to have it outlined where we're supposed to go rather than make it up on the fly. He said in theory that's what the vision will give us. This is where we're headed. We'll have some guidance for the Planning Commission. Tokos noted that on page 3 of HDR's proposal, visioning is defined as "A process through which any community can envision the future it wants, plan how to achieve it, and begin to make it happen. Through visioning, a community works to answer the following questions: Where are we now; where are we going; where do we want to be; how do we get there; and ultimately, are we getting there?" Branigan noted that it's also in the chart on page 1. Tokos thought that a good vision and how it's planned

is broad-based and doesn't delve into a particular topic area in too great of detail. Tokos said you also want to reach out to your constituency and try to get those who are not usually involved.

Vanderbeck liked what HDR mentioned. They knew quite a bit about us. They studied the community. She mentioned that in Coeur d'Alene they have rejuvenated the resort area. She doesn't know if the plan was to make that more trendy and have complexes where there are condos with a modern look and restaurants beneath them; but that is what happened. She said that Bozeman was a cow town with lots of bars. It was also a big college town. They redirected it to evolve to what business buildings need to look like under an umbrella. They have to meet certain specifications in the look of the building. Hardy said, architectural controls.

Branigan said a vision is something very simple like "we want to make Newport a vacation destination," these are the strategies, and then break it down further. Tokos said that will be ranked in this process. He noted that for each topic area identified if there's one thing to accomplish as top priority, what is that? Otherwise you get a lot of different concepts, but you don't get what the top priority is. Vanderbeck said they mentioned easy projects to get completed as well. Branigan asked what Coeur d'Alene's overriding thing was. Vanderbeck said she just knows what she has seen it evolve into. It made a big difference in the downtown area. Croteau agreed that twenty years ago it was a dumpy mining town. Today it's upscale. There are a lot of great features. He said that this is not breaking new ground. Probably 70 thousand cities have done this. We can find out what they thought was important. You will get a concept of what cities broadly thought was important for the next twenty to thirty years. Then you can put ideas out and try to prioritize them for a large portion of the population.

Patrick said he thought that HDR wasn't the best to build the plan; but he thought we would get the most out of them. He thought they were the best for getting information. Croteau thought this was a good job. It's what a vision is supposed to be looking like going forward. Patrick thought that if Newport gets a framework, we will run with it. We have enough resources we can make it work. We don't need the refinement that big cities need. Croteau noted that we're not starting from scratch. We have some excellent plans already done for specific areas. They were plans put in place to help facilitate that stuff. However, many areas need work; and the city center fits that. Tokos said that if folks want to see in this process that this use is going to happen on this parcel, it won't get into that level of detail. What it should do is say this is where we want to go development-wise in the community; our schools evolve over time, this is what we see for a library, we want police services long-term, and things of that nature. He can see the need for a full-time committee to ride herd and refresh the plan every five years; and maybe every once in a while bring in HDR to help. He mentioned the bridge, and that design process with the public taking two to three years. Is a couplet the answer? We have an existing 101 right-of-way, and how will we deal with the aspect of that impact in twenty to thirty years. That's when it's going to get in the weeds. This will just set the framework for the general desire.

Tokos was asked if the Port is an integral part of this, and he confirmed that they are. Berman asked if they will either make presentations to or solicit input from different groups. Tokos said we are trying to engage as many as possible. Maybe the schools. Hanselman said, and the retired community. Patrick said they were trying to figure out how to engage with the Hispanic community, and they found that the only way was through text messages. They set that up and got all sorts of stuff. We have to figure out how these people get their information. How they engaged the kids was to make it a school project. Tokos wondered if the Commissioners saw the article in the paper about the Hispanic graduation rates being higher than the general population. In interviews with Hispanic parents, they said that they didn't expect to stay here so they didn't engage in the community. They came for an employment opportunity. He said that gives you some insight into the different dynamics. Maybe it's not the fear of engaging, or that it might not be their native language, or that they don't trust the government. He said that was one he hadn't thought of offhand. He said it will be interesting to see what strategies we can come up with to engage the Hispanic portion of the community. That's an area we haven't really reached out to in the past.

Tokos said this process moves along. He noted that there's an opportunity for somebody from the Planning Commission to serve on a committee. At some point we'll have a formal vote. The City Council hasn't indicated whether there will be a formal committee or not. But if there is, they will likely want a Planning Commission member. So, the Commissioners can kick that around. He said there will be more opportunity to engage individually as well. So, he hopes the Commissioners will plug in. Patrick said how they talked about the process, there will be lots of opportunity for people to engage. Berman asked if we can expect modifications to the Comp Plan. Tokos said, yes, to a point. There's absolutely that possibility. He said, as Patrick had noted, an issue when you get into the Comp Plan on land use is that there are statutory sidebars we have to work with that the vision plan doesn't. There are some things that will happen. The Park System Master Plan, for example. People will provide feedback about their recreational needs. That will be an amendment to the Comp Plan. We will look at housing again; we last did in 2014 and before that, 2011. Possibly the economic side of things, which was updated in 2012 or 2013. It will lead to amendments.

3. New Business.

A. Update on OPRD Master Plans for Agate Beach State Park, Yaquina Bay State Park, and South Beach State Park. Tokos noted that OPRD has been working since early 2015 to update their master plans for Beverly Beach and South Beach. From Gleneden Beach south to Yachats, parks all up for updates. Some of the parks are in cities, and some are outside

cities. In the State, they do the master plans. Those then go through the process of adoption at the state level and at the local level. They are limited to whatever is authorized in that plan. They get to do what's in that plan and nothing else. For our purposes, we have three state parks within city limits. Tokos serves on an advisory committee for this process; and Dick Beemer is on as a citizen advocate. He said they have come through a couple of rounds. They met with Tim Gross and Tokos to talk about Agate Beach and Yaquina Bay State Park; not so much on South Beach State Park. They worked up these concepts. They just had a meeting in July to go over the most current concepts.

For Agate Beach they are looking to basically rip out a fair amount of asphalt on the east side of the site and replace it with a multi-purpose sports field. The City talked to them and said that's a good idea actually because there are a lot of multi-family and single-family residences up north. The field would be used for soccer games and things of that nature; nothing formal, just a grassy area so that it's a flexible use space. There was some discussion about putting in picnic shelters, but OPRD is cautious about doing that when the park is not an actively-managed facility because it becomes transient lodging when you don't have oversight there. Having park managers stay in RVs was mentioned, but a portion of this is in the floodplain. They will keep the tunnel but not advertise it. They will emphasize people crossing where they currently do up by the informal parking area, which they will pave. They will get good signage there. There's too much challenge with the tunnel; when you come out on the ocean side, you have that creek there, and there's not a lot they can do about that because it moves around a lot. The City's thought was that this is a pretty nice design for this particular facility. This is reasonable.

Berman asked how many parking spaces they lose and is that a problem? Tokos said it's small. The thought is that it's underutilized. There are 67 spaces with the reconfiguration. Most people park on Oceanview. Hanselman said he bikes there every day. This is the section that has 35 mph speed limit, which is not enforced. He said they are going to direct more pedestrian traffic on the surface road rather than the tunnel. With all the parking on the shoulder, the sight line is terrible. You have kids with all their beach toys and kites. He said at least get the speed limit reduced. He thinks it's an accident waiting to happen. He said most neighbors and people on the road are of the same mind. Berman agreed 100%. He wondered if they had considered a blinking crosswalk; that really gets your attention. Hanselman said, or minimize parking on the shoulder. Patrick said, or put bump-outs. Tokos said there's no defined curb there. Hanselman said on clamming mornings, the locals are there. There's nobody in the parking lot; they park on Oceanview because they can. Tokos said he could ask OPRD about something like that. He said the line of sight is a straight shot in both directions. Hanselman said until people are parked on the sides of the roads; then it decreases. You don't know if a car door will be thrown open, or someone will walk out between cars. Croteau thought a defined crosswalk would go a long way. Tokos will talk to Gross about the parallel parking. They don't really address that in here. Branigan said when you go through the tunnel, nobody goes through because you have to cross the creek. He wondered if we could improve the trail; put a boardwalk that goes up to the parking area and down. Tokos said that's what they are showing; a hard-surface trail. Improve the trail on the west side back toward the parking lot.

Tokos noted that at the Yaquina Bay State Recreation Site there are multiple beach accesses, one of which is always blocked off by a lake basically; and they will be rerouting that access. The others are still there. There are plans for targeted improvements along the drive. This is a loop route that's quite popular. The drive is a key piece of this location. Tokos said they would have liked to pawn off the middle part on the City. It's a vegetation headache for them. They have gone through and assessed that enter area. There are portions of that area that have important native plant species. They want to do a preserve in some capacity. Tokos said what he thought was needed was a community space on the north end. They said they didn't have to define what that could be. They know the City will be doing a parks master plan. Then through our process we can engage folks and come up with what that should be. There was some thought that a portion should be an urban park that Newport residents would utilize; geared more to locals. They see this as a good candidate for that. Berman wondered if bicycling around that loop had been taken into consideration. Vanderbeck thought that someone had requested that. Tokos asked Berman if it seems to be fairly utilized for bikes. Berman thought that tourists would drop down through there. Patrick said he walks through there and doesn't see them. Croteau said it would be a slow enough traffic area. Tokos said it will get slower too because of the bump-outs and more pedestrian-oriented safety features. Vanderbeck said they mentioned narrowing the road in front of the kiosk because for the start of the marathon they need the space for runners and spectators. Patrick thought it's still the same amount of area. Tokos likes that they identified doing something with the interpretive area underneath the bridge. They put a sidewalk in there, but there's an open area that's not really defined for a use at this point. Hanselman asked on the left side of the page what the blue area is on the map. He was told that's the road; it just turned out that way because of the overlay they put on it.

Karmen said she knew Dean who used to be with the Parks Department for a while but isn't there any longer. She had asked about a Christmas event. She thought that Yaquina Bay would be good for a drive-through. He had done that in several cities he served and thought it was a great idea. She said in Billings they had a drive-through at Christmastime where you just drive through a park. Every business had a designated area for advertising their business and decorated that spot. The businesses were in charge of putting them up and taking them down. It brought in some revenue because they would charge something to go through. It had to be coordinated with the city as well. Tokos noted that Nyla Jebousek had brought that up several times. He will pass that along; at least to include language to allow for that. He agreed it would be a nice loop to drive through. Hardy said the decorations would have to be weather-hardy.

Berman said it seems like a lot of tourist traffic is small RVs. He wondered if they take that into account when striping parking lots; have 30-foot spots for over-cab or small class C RVs. Tokos said he would ask them. Branigan said they should stripe for pickup trucks. Berman said it's amazing how big those pickups are.

Next, regarding the South Beach State Park, Tokos said he walked with staff and encourage them to put in the plan access out Anchor Way. Near where the tent camping is, Anchor Way shoots in from the northeast. The right-of-way goes up to the camp sites. He expects they will put access there that will pull out on Abalone. That multi-use path is right there. They can bike from the Park over to Hatfield or Rogue and not have to go out on 101 at all. It's public right-of-way. We have no plans to pave Anchor Way; but they could if they wanted to. That also would provide access to Safe Haven Hill. Even if it were a dirt path as they do in many parks. Tokos said on the map you can see the new 18-hole disc golf course. He said that there was a fair amount of discussion about that. Their thought was that it would be a nice recreation amenity and one type that would be appropriate given the terrain there. Patrick noted that they said something about taking out the huckleberry and salal. He thought those were native plants. Hardy said you have native species that are technically weeds. They stabilize the soil. As the soil quality is increased, the second and third stages come in.

Patrick said he likes the stuff on the South Jetty. Branigan asked, for what they're doing with the diving access, did they actually consult divers? He has no concerns; he's just curious about additional details. He said if you go down to Florence at the mouth of the river where you put boats in there's a concrete pad at the boat ramp where you can walk in and dive. They need to do something like that. Tokos said they show a hard surface path. He doesn't know if you want to extend asphalt out that far. Branigan said they could put in a wooden boardwalk or clear the rocks and put in gravel. Patrick thought that there will be maintenance with anything you put in. Tokos noted that there's a lot of defined parking areas. The equestrian area, which is popular in that area, will be reconfigured. Right now it gets used by other users. Croteau asked where we stand with the barrier in terms of parking. Tokos said that's going to stay.

Tokos said in balance, South Beach State Park is where they can squeeze in more yurts. He said you can see that concept on the map. These actually make money and subsidizes other parks. They are relocating the restroom where the beach access is, which makes sense. Patrick asked if they're going to make a trail connection to OMSI. Tokos said they talked about that. OMSI loves access to the state park but doesn't want people from the state park walking through their property all the time. You can see the OMSI building from the tent camp sites. They have posted the access for emergency only (like tsunami evacuation) and also for employees only. Vanderbeck asked if OMSI is being pretty well used. Tokos said they have had a lot of kids out. Croteau said on weekends when he's driven by, there's a reasonable number of cars.

Tokos said one thing he will bring up is something on the natural resources side of things just as a development concept. OSU and the Port are trying to put in sand barriers toward the jetty to build up the dunes so not as much blows into the channel, which then has to be dredged. If that happens, it would impact traffic. Right now that's not permitted. If it were to be permitted it has to get into the plan. Croteau asked if they're things like vegetation or sand fencing. Tokos said they are talking about sand fences that would be exposed for a short time before they get overcome by the dunes. Berman asked why OSU was interested. Tokos said OSU would use it as a research thing; as a testing site. The Port's interested because it reduces the costs of dredging. Patrick asked if they were doing a relocation of the South Beach State Park access. Tokos said the City is moving 50th Street to align with their access. At the bottom of the page it shows where it would loop down on the south side of the park. We're having conversations about 62nd Street right-of-way and a portion of 50th Street.

Tokos said the final round of these plans will be in November. We should see plan approval next year.

4. **Adjournment.** Having no further discussion, the meeting adjourned at 6:58 p.m.

Respectfully submitted,

Wanda Haney,
Executive Assistant

Draft MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, August 8, 2016

Commissioners Present: Jim Patrick, Rod Croteau, Lee Hardy, Jim Hanselman, Bob Berman, and Bill Branigan.

Commissioners Absent: Mike Franklin (*excused*).

City Staff Present: Community Development Director (CDD) Derrick Tokos and Executive Assistant Wanda Haney.

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:01 p.m. On roll call, Hardy, Berman, Croteau, Patrick, Hanselman, and Branigan were present. Franklin was absent, but excused.

2. **Approval of Minutes.**

A. Approval of the Planning Commission regular session meeting minutes of July 25, 2016.

Croteau noted a couple of typographical errors, and Berman noted that some clarification was needed under Director Comments item e. **MOTION** was made by Commissioner Croteau, seconded by Commissioner Berman, to approve the Planning Commission meeting minutes as corrected. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** No public comments.

4. **Action Items.**

A. **Final Order for File No. 1-NCU-16.** Approval of the final order and findings of fact approving a nonconforming use permit as requested by First Baptist Church (Pastor Glen W. Small, authorized representative) for an addition to the nonconforming structure at 628 NW Grove Street. The Commission held a public hearing on this matter on July 25, 2016.

MOTION was made by Commissioner Croteau, seconded by Commissioner Hanselman, that File No. 1-NCU-16 final order be approved with the condition indicated. The motion carried unanimously in a voice vote.

B. **Discussion regarding members for the SDC/CET stakeholders list.** Tokos noted that we originally put the RFP out until August 5th. We extended it until August 19th to make sure we had a fair number of RFPs. We received two and will probably have three or four on this. Tokos put together a list for an ad hoc committee; not an on-going committee, to provide technical advice as we go through the SDC methodology and the CET study. He put together what he thought would be a good range of people you would want on that committee along with the individuals. All have indicated a willingness to serve. He's hoping the Planning Commission will nominate a Commissioner. He said that if there are others the Commission thinks should be on this list, to let him know. He would like to take the recommendation to the City Council next month. Croteau wondered if there should be some builders. He said there are no real contractors. He asked Patrick if there should be; and Patrick's answer was, yes. Hanselman asked about having someone from the banking industry that deals with developers and builders. They have to come up with the money. Maybe banks have a better idea because they are loaning the money to them. Branigan said from his banking experience there's nothing specific. The contractor comes in for a construction loan. They say these are the costs involved. Typically, they have factored in all of that. Berman asked if Tokos thought there might be the need for input from the City Finance Department, or do they care? Tokos said they don't care on the SDCs one way or another. They are not involved in a tangible way. Patrick suggested that if we want a builder, Tokos might ask Paul Lamont because he was on the original committee. Patrick said he wants to volunteer for this committee. Tokos said that's why he didn't put a builder on the list because he kind of thought Patrick would want to be on this. He said a developer is also on the building side when you think about it. It was mentioned that maybe there should be a builder independent of Patrick. Tokos asked what about Rich Belloni as a developer. He has a

history with the city. Patrick said Belloni would be a stakeholder and might be a good choice. Tokos said we don't have a lot of builders that deal with this stuff or it's not that often that they deal with it. Patrick said they deal with SDCs. Tokos said their clients deal with them.

Patrick volunteered for this committee if none of the Commissioners objected. He said that he has a natural interest in it. That's why he was hoping someone else would take on the vision committee if one is put together. Branigan said Patrick was the best-qualified. Croteau said the list is a good cross-section. Tokos said he can pull in two or three to select a consultant. This group will take a look at an RFP process, provide feedback on goals and SDC-eligible projects. They will look at the capital needs side of it and look at different SDC methodologies. Some fine-tuning may need to be done to the existing ADU methodology. Restaurants have been an issue for us. We have issues with affordable housing and whether apartments should be getting hit as hard as they are. That's why OSU needs to be pulled in. We need to look at different options for addressing credits. Patrick wondered if we should throw a realtor into the mix. Tokos said we could. He noted that Alan Wells is a commercial broker. Tokos thought that should cover it, except for adding Jim Patrick, Rich Belloni, and whomever from the City Council. Tokos said we also collect school CET. This affordable housing CET would be on top of that. They may want to look at that.

MOTION was made by Commissioner Croteau, seconded by Commissioner Berman, to make a recommendation to the City Council for this committee as listed with the addition of Jim Patrick and Rich Belloni. The motion carried unanimously in a voice vote. Tokos said if not Belloni, he will look for a builder.

5. **Public Hearings.** No public hearings were scheduled.

6. **New Business.**

A. **Information on the Marine Studies Initiative Newport Building Siting Recommendation.** Tokos wanted to pass that information along. This has been a decision that a lot of folks have been waiting for; whether they're locked into constructing on the existing campus or elsewhere in the community. They decided to build on campus. He said the materials are self-explanatory as to why. If they proceed in this manner, they are likely to face a variance to construct higher than the 35-foot building height limitation. The Planning Commission would have to make a decision about that. Or the Commission can change the rules to provide for some structures to exceed the 35-foot height limit in W-1 and W-2 zones for vertical evacuation purposes. There is some rationale for that. The height limitation was put in place before there was an understanding of what the tsunami risk was. He expects that would be their argument in a variance. He anticipates the City Council will bring that up and kick it around. It may get directed back to the Planning Commission as a legislative action. Croteau said part of this sells him on the fact that potentially this building could really be constructed in terms of how to build for withstanding a tsunami and how for vertical evacuation. It might be setting a record for how to do construction in a hazard zone. Tokos said, to be frank, he doesn't think the building codes will get in the way. They can't land on the building codes as providing a pathway per se. He doesn't think the codes will be a problem. They are exceeding it. Croteau said he's looking more globally. Hardy said that if any of the Commissioners want to look at the reports, she can forward an email with the links. It gives a much greater idea of the conversation going on. She said it's still quite controversial.

Berman wondered, with respect to changing the height restriction, in this circumstance prior to them requesting it, are we greasing the wheels ahead of time? He said nobody else is talking about it. It didn't come up with NOAA. He said it seems somewhat inappropriate to consider that. It would be appropriate in a conversation with the variance request. Tokos said to be clear, he doesn't think anybody would approach that with the idea of short-circuiting the discussion. If we are going to change the zoning code, every player would get notice and have an opportunity to provide comments to the City Council. It would be a legislative process as opposed to a variance. For a variance you have to show practical difficulty and hardship. It's highly discretionary stuff. In some respect it makes more sense to do it legislatively where there's some intent and purpose, as opposed to a variance where it's how you feel about the practical difficulty and hardship. Patrick said that's been his complaint. A bunch of different codes were established based on how the Commission felt at that time. Croteau asked where the initiation would come from for a code change. Tokos said either the Planning Commission or the City Council. He has a suspicion it will come up at the City Council during their meeting next Monday. Croteau said that would give the Planning Commission guidance. Berman said he was concerned about the appearance. We are talking about this; and by the way, Hatfield wants to build this way. But, it's probably right in a legislative context rather than a variance. Patrick said it's not much different than what the Commission did to change the zoning for housing in Wilder. Tokos noted that with building

height limitations, it really goes back to what our fire department trained staff could reasonably deal with. Our commercial goes up to 50 feet. Beyond that it gets too large to respond if they have to respond to a structure fire. Tokos said his suspicion is if it's done legislatively, we don't specify a specific height, but be clear that it's for vertical evacuation purposes only; and not any other occupiable space. Berman said so if they want five stories, they have to build six and designate that the final story is not occupiable other than for emergencies. Tokos said it doesn't buy them another floor of offices. He said it's a thought. Maybe we don't end up there. The thought process is that we should provide for some variation based on what we're shooting for. The current thinking is that "X" is tsunami-certain elevation; but that will change as we get better data. We need to let it be more of a science-based exercise. Berman noted that the last time a certain height was mentioned, and signs were put up based on wrong information. It's 30 feet on the highway. He said if we did do the legislative thing in the near future, what would the requirements be? Would they have to bring this project to the Planning Commission? Tokos said it depends on how we set the code up. He was asked about all the rest of the planning they do. Tokos said a traffic impact analysis would trigger because of the number of vehicles attributed to a building of that size. But that doesn't go before the Planning Commission. Patrick said they can get building permits. If they meet the rules, the City has to give them a permit. In response to a comment from Hardy, Tokos said we haven't had anybody assert that there has been gross negligence on the City's building department's part. Jump Off Joe was engineering. He said if an engineering geologist says it's safe and puts their professional stamp behind it, the City is not liable. Hardy said back then, the City staff was told that if the application is filled out correctly and completely, you can't deny a permit because of a known hazard. Tokos said that's the quandary you run into. Tillamook was in the same boat. You are bound by the rules you have.

7. Unfinished Business.

A. Information on Planning Commissioner Training sponsored by the Oregon City Planning Directors Assn. Tokos noted that this Planning Commissioner training is still available if anyone wants it. We have funds. He told the Commissioners to let our department know if they are interested in attending. Patrick said that he may be interested. Berman said that the agenda sounds interesting. Tokos said he knows all three presenters, and they are good. This is during the League of Oregon Cities conference, but Tokos will not be attending this training because it's for Planning Commissioners. He told the Commissioners if anybody is interested to fill in the registration, and we will take care of it from there. Patrick thought he will.

8. Director Comments.

A. Tokos noted that the public hearing on Wilder will be September 6th at the City Council level.

B. Tokos said we did receive confirmation from FEMA that they awarded the money for us to buy the homes on 71st Street. The City Council authorized staff to sign the contract documents. Six agreed to sell, but one will try to stay in the home. That was the first yellow-tagged residence. They hired an engineering geologist for structure modification. We will keep the door open should they change their mind. It depends on if what they submit, the Building Official finds sufficient to remove the tag. Tokos said he's a little nervous about being able to get this done before wet weather. He can't line contractors up until we know we actually have the money. It will be hard, but we will do our best.

9. Adjournment. Having no further business, the meeting adjourned at 7:35 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room A
August 22, 2016
6:00 p.m.

Planning Commissioners Present: Jim Patrick, Lee Hardy, Bob Berman, Mike Franklin, and Jim Hanselman.

Planning Commissioners Absent: Rod Croteau and Bill Branigan (*excused*).

PC Citizens Advisory Committee Members Present: Karmen Vanderbeck and Dustin Capri.

PC Citizens Advisory Committee Members Absent: Bob Heida.

City Staff Present: Community Development Director (CDD) Derrick Tokos and Executive Assistant Wanda Haney.

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:00 p.m.

2. **Unfinished Business.**

A. **Preliminary discussion about the release of the 2016 flood insurance rate maps.** Tokos noted that included in the meeting packet was the preliminary release of the new FEMA Flood Study and Insurance Rate Maps. The letter distributed at this meeting was the actual hard copy with instructions. There's an official 30-day review period followed by a 90-day appeal period, after which they will look to finalize the maps in seven to ten months. We will take the study and maps through local ordinance adoption, which should be in the fall of 2017. Hardy asked if we're obliged to adopt them. Tokos said if we want to maintain flood insurance for our constituents we have to adopt them. Hardy said then people wouldn't build in hazardous areas and we wouldn't lose lives; what's wrong with that?

Tokos noted that when FEMA did the early release back in 2014 to get feedback on how the maps were coming together, we had a few targeted areas. One was the Nye Beach turnaround. Franklin asked if the new gray area was revised. Tokos said yes, they pulled it back considerably. They found that VE zones didn't play well with the vertical seawall. They had to adjust their modeling a bit to get it to handle the seawall dynamic better. That's why they said the original information was overly conservative. Patrick said that area could still flood, but this is more realistic with respect to wave surge. Tokos said in that VE zone, the surge shouldn't be much beyond halfway through the parking lot at the turnaround. Patrick thought that made more sense.

Tokos said that over by Neolha Point they were basically pulling most of the townhouses out. We gave them photos showing flooding in 2007. While it may not be related to wave action, the thought was that if it's subject to a 100-year event, it should be in the 100-year flood plain so people know that when they purchase the property they possibly can get federally subsidized flood insurance and they're not saying that nobody informed them. Berman asked how they know. If he's from out of the area and buys a piece of property that looks perfectly reasonable, how does he know? Tokos said if there's a lender involved, it's mandatory. It will come up in the disclosure documents. Berman asked who's disclosing it. Tokos said he thinks a lender will require that it's mandatory for insurance before purchasing property. Hardy said it's not clear in the disclosure documents used in this state. Certain sellers, like banks, governments, housing authorities, and developers, don't have to disclose. In addition, on these forms the third answer choice is, "don't know." She said we don't have disclosures properly structured to provide that information accurately. Patrick asked if it's shown on title reports. Franklin said that banks find it. Tokos said that our office gets contacted regularly. Hardy said hopefully it stops them because their banks won't lend the money; but there are a lot of people who spend cash. Patrick said it would get tagged when they go to get insurance. Tokos noted that there's the required disclosure on the deed documents that you are responsible for going to your local planning office to review zoning laws. This is an overlay, which is a zoning law. Hardy said that doesn't mean that it gets read and they will do that. Tokos said it's a "buyer beware" system. Hardy said it's not the be all to all concerns. Tokos said, it's the system we work with. Hardy mentioned a NOAA employee who was using a realtor that should have encouraged him to ask the right questions; but she didn't. Now this person is facing \$30-\$50 thousand to rebuilt HOA common area. That had been known for years, but he was never advised. It was bank-owned property. Special assessments aren't in the CC&Rs. The disclosure form wasn't required because it was bank-owned property. If he had asked to review minutes and budgets, he would have seen it; but nobody advised him of it. She said a lot of people get burned relying on the disclosures. Berman said a seller is required to check those boxes if they're selling their house. Hardy said, but the third answer is "I don't know." Tokos said it's correct that they have that option in there. The disclosure form is something held tight by the real estate lobby in the state. Capri said if you had just "yes" or "no" that's scary because you are liable. Hardy said it's easy if you don't know something to hire somebody to find the answer. Capri said geologic reports are the same; there's so many caveats.

Looking at the Neolha Point aerial, Franklin asked if that structure next to the townhouses is required to get flood insurance. You can see how tight that is. Tokos said we have to go through the 30-day review. We can pull out circumstances like that where it comes up to the eaves of the structure and ask, what are you looking for on something like this? He said as a matter of interpretation, it makes things difficult. They are giving us highly-defined, good-quality maps. They should be able to tell us, if it's close, you are going through the process. Now it's very tight. Berman said it looks like a corner is in. Carpi asked if a structure touches, is it in? Tokos said, what do we do with that? He said it probably should have been already elevated. Franklin asked if it's the structure or the property lines. Once it's on the property, is that subject to FIRM? Tokos said, no, you could have a large property. Patrick said what you are looking at is the flood level numbers and floor level. Tokos said he needs to see what FEMA's expectations are with these new highly accurate maps as opposed to the old ones that were less accurate and we had more discretion. Patrick noted that that structure Franklin asked about was built when it flooded down there. Tokos said he didn't recall if that assisted living facility was flooded; but at least half of the townhouses were.

On a side note, Berman had a question about a property on the lower left of the map that had a white roof. He said that's a derelict property that needs to be cleaned up. Tokos said that's a question for Jim Folmar, our Community Services Officer. That's who would handle that; it would be a nuisance abatement. Patrick thought it would be good if we could have Folmar come and do an update to the Planning Commission about zoning things he handles.

Tokos said the third map we had talked about was the Big Creek area. They didn't make any changes that we talked about. They are pulling out a number of homes where we have had flooding. Hardy said she knew for a fact that a couple of the homes have pumps under the houses, but are outside the zone. Patrick said that could be a spring thing, and not flooding. Hardy said the first time it happened they didn't call it a flood because it didn't cover two square miles. She said it's probably a combination of ground water and runoff. Tokos said he will follow up with FEMA. As he pointed out in his memo, the study was all coastal. There was no hydrologic analysis of rivers or streams. The dynamics of those have changed considerably; where they're located and where the sand bars are. Hardy said you would think because it's the same water system, that they would look at it all at once. Tokos said it's a big piece, and they didn't tackle it. It makes you think that they would be more cautious there. Patrick asked if they're ever going to tackle that. Tokos said he can ask them. They are looking to set up a consultation coordination officer (CCO) meeting in mid-September. He will ask when or if it's even on their radar. Patrick said it would be nice to know. Capri thought Big Creek has big impact. He said anywhere rivers flow into the ocean it could flood in really different ways than what this is projecting. Hanselman noted that it's increasing at Agate Beach. DOGAMI and OSU are studying changes of wave actions on the beach. He said this is a 20-year cycle. Sand being deposited on Agate Beach may be coming from Cape Blanco. They are saying that the Newport beaches extend as far as Cape Perpetua. The sand comes from the sloughing off of the bluffs. That's what gets deposited north. There seems to be a reversal after twenty years. The depth changes dramatically in thirty years, which will change these flood maps too. He said that in the pictures that DOGAMI has of Agate Beach and the high water marks, it's remarkable where the high water is over fifty to sixty years. Some of this will change because nature changes. Patrick said that brings up the reason to ask them.

Tokos noted that in the packet, he included the north side and south side maps and a link to the website where we have the panels and the study. Patrick said he looked at those maps, but couldn't read them. Tokos said on those, the blue area would be the area. Tokos said the gist of this for Newport is that we don't have a lot of expansion. Much is elevated and bluffs. The storm surge can cause issues. One area, Big Creek, has a large floodplain. Tokos shared with the Port of Newport their area. Kevin Greenwood is working with the Port Commission. We will share their comments on behalf of the Port. They have McLean Point. That will impact them a little bit. It's currently being used as a dredge disposal site. They actually benefit by and large. Port Dock 7 is pulled out. FEMA originally set the bay height at 11.5 feet, but adjusted that to 12 feet. Tokos noted that there's a fair amount coming out in South Beach in the State Park. A lot has to do with accretion as the beach area moves further out toward the end of the Jetty. Berman said that's not buildable anyway. Tokos noted that some lots in Southshore are getting drawn in on the south end; three or four are impacted. Capri wondered what that was on the north map up by 89th. Tokos said it looks like something from the original maps. Maybe it was tracked further in. Berman said Moolack Creek goes back up in there.

Tokos said, as part of our comments, there were a number of letters of map changes (LOMCs), letters of map amendments (LOMAs), and letters of map revisions (LOMRs) that were all different flavors of changes made to FEMA maps outside the regular update cycle that will be superseded. They sent a two-page printout listing the out-of-cycle map amendments that are impacted because of these changes. We will be contacting those folks personally. Any property owner impacted will be contacted. He noted that we have a property owner who is looking to develop on property that is going in. They are looking at what to do. Do they want to develop in a more noncompliant manner? What's it going to cost to build in compliance with the new maps? What's the cost of insurance? He said, on the other hand, Capri had mentioned someone wanting to develop on property coming out. Capri said if it's outside tidal action, anybody can do site specific. They submit a letter to FEMA. Tokos added, if you can show that the development site is elevated and you don't need to artificially elevate, you can do that. Berman asked if these maps are based on Lidar. Tokos said yes, and also there's the study of the coast where they did modeling in terms of wave surge and terrain features on the coastline. They have been observing wave action over a number of years. That's why along the coastline it's broken down into finite sections and you will have different elevations for these different sections. They

took a hard look at the coastline. Capri said before it didn't follow the topography at all. Tokos said the '09 maps were digitized versions of the hand-drawn maps. They were very cartoonish, but it was the best they had at the time. Hanselman asked if the red lines on the maps were the UGB or city boundaries. Tokos said that's the city boundary. Capri thought it was good that we would be sending notices out to the affected people. Hardy asked if the City will be keeping a registry of those people and properties. Tokos said we will start a legislative file that we will keep under permanent retention.

On a side note, Patrick asked where we're at on the city limits. You can't tell what's in and what's out. Tokos said the City Council put their Urban Renewal hats on and talked about that. The general consensus was that we need to do concept planning for the highway corridor at least down to 50th (32nd to 50th) with the same detail as we did for Coho/Brant. Then pick up a conversation about annexation when they could have a more-informed discussion. Those property taxes will go up. We can quantify what they will look like. Without that, we can't answer what it will do if they come in looking at the long-term. Many of those properties are industrial. Do they want to stay where they are, or will the City turn it over to commercial? When given enough time, they can make those decisions. Hardy recalled that the developer of Wolf Tree did outreach between there and Newport to try to gain contiguous properties. The resort would develop sanitation and water system and sell it back. Then he lost the property and Will Emery bought it. The original developer was offering free golf for life if the property owners would agree to be annexed. Tokos noted that if a property is surrounded, we can take it; that's called island annexation. They have a say. They can show up at public hearings. But they couldn't stop it at the end of the day. Tokos said there are properties to the south in the UGB he doesn't show, but we don't technically surround anything there. Hardy said that south of 98th on the west side was targeted for that in the past. Patrick asked about 50th. Tokos said that is all surrounded. Patrick said for Surfland we don't have any way to get services down there. Capri said that 50th should be looked at. He said they are doing a development there, and by the time the City annexes it, you will be stuck with development at County standards. Patrick asked if the Council wants to do a design study down to there. Tokos said possibly to convert to commercial down to 40th, and industrial will go away. It's light industrial, which is a flex zone. They are not wanting to see a towing company for instance that won't mix well with a Trader Joe's. He's guessing that 32nd to 40th will possibly shift to commercial; and 40th to 50th will be industrial. We would want to have serious conversations with Hwy. 101 major landowners, like Tryon. Some of theirs is heavy industrial. They have entertained other uses like Lowes, but it just didn't happen. They are open, though. Wilder doesn't want to see heavy industrial there after the experience they had with that temporary asphalt plant that set up there. The issue is the smell if you're a residential owner and an asphalt plant comes in.

Patrick mentioned Tillamook; and Tokos said that Tillamook is going to get hammered. There's one little bit in the middle that's high enough. He said the big concern is the assay stuff; the concept of having to do habitat protection and not knowing what that is going to cost.

3. New Business.

A. Code changes to height limits for vertical evacuation. Hardy asked if we can limit that to existing buildings only. Tokos said he didn't think that would be saleable. Existing buildings may not be designed to take on the extra load. He said this is just an initial stab at the code language. He attached the guidelines FEMA has, which is a pretty good resource out there. It gives you an idea of what some structures look like. He attached a couple of chapters; the link has the whole document. It was felt that the most straightforward way to make changes would be to do a general exception. We have a variety of zones that fall within the tsunami inundation area. We have other exceptions that are akin to this. Hardy asked if that would apply to new construction. Tokos said it would apply to new or redevelopment. In the Height Limitations chapter of the NMC he added under general exceptions, "Portions of a structure designed for vertical evacuation from a tsunami where the property upon which the structure is located is within a tsunami inundation area as depicted on the maps entitled. . ." and then spelled those out. We can amend it in the future if newer maps are put out. He avoided putting a maximum height in here. We don't know what that needs to be in certain areas. In commercial and industrial the height limit is 50 feet, but that might not be sufficient in certain areas. It depends on site-specific conditions.

Hardy asked if the City has an inventory of buildable sites in the inundation zones. Tokos said we have a buildable lands inventory from 2013 and 2015. If we bring this to adoption, he could map that. Hardy said you know where they are, and someone wanted to build for vertical evacuation, it requires new construction to possibly be engineered to sustain impact. This just addresses one thing. Hardy thought that if it's just isolated to one thing, it leaves you hanging out there. Tokos said he can talk to our Building Official, Joseph Lease, about whether the building code is sufficient. He suspects that the building code is going to be flexible enough to allow you to design robustly to withstand wave force; it's not going to compel you. Hardy said it seems that if we start allowing this exception for that kind of construction then it's encouraging high-risk behavior. Tokos said there could be additional standards in the zoning code or as local building codes. Hardy asked if they aren't supposed to be stricter than State codes. Tokos said only if they're addressed in the State code; if not, we can address it. Capri thought you would be identifying properties you can't develop. Hardy wondered why have laws and rules if you can't develop safely. Berman said that's the direction of almost any property. If an earthquake hits, the weak will fall over. Hanselman thought it was of greater importance to not want buildings in there in the first place. We wouldn't want to give a height variance to residential just to encourage people to stay. He doesn't see that as appropriate. He said we should be using standards to prevent that. Hardy

said, or discourage anyway. Hanselman said to build a house that needs an evacuation level above 35 feet is counterproductive. Capri said on all these lots are people that have spent fortunes; then you tell them that they can't?

Tokos said the Commission could limit it to water-related or water-dependent; you have that flexibility if you want. Capri said the purpose is to protect life safety. Tokos said it's not intended for people to try to use that to circumvent the height limits in areas where there are views of the ocean and the bay. Patrick said that level's not supposed to be for human habitation. Franklin wondered who's going to review those. Vanderbeck wondered why not keep it as is and use a conditional use permit to assess exceptions. Why open it up? Tokos said the concern from the Council about handling it as a variance is that the variance standards talk about practical difficulties and hardship. You could make a pretty good argument that there's no problem with anybody building to the current code, and they have no entitlement to vertical evacuation. They felt it's better as a legislative matter. You are talking about height limits established before there were tsunami inundation zones. Hardy said we don't have actual data about inundation. It's all computer-generated. Patrick said there were places in Thailand that withstood the tsunami, and people vertically evacuated. There are studies saying this can be done. Hardy said, but it hasn't been established here in terms of impact on the topography. It's based on computer models. You don't know what is going to move where. If they evacuate vertically, can they survive? Tokos again noted that one way to go is to limit it to water-dependent and water-related because under the revised statutes that apply to building codes, there's a prohibition to essential facilities being in inundation zones. You could say vertical evacuation makes sense in W-1 and W-2 zoned areas where you could have higher occupancy. That would make more sense. Not in residential zones; outside of maybe hotels. You could say R-4 would make sense to pick up hotels then. The challenge is building further up there. Capri asked if it could go the Planning Commission. Tokos said we would have to have standards for evacuation.

Berman said we're talking about height; and if he's reading the maps right, there's 80 feet plus 30 plus 10; and that doesn't take into account 10-30 feet of subsidence. A 200-foot building is impractical. If it's engineered and they're doing it right, it still would be totally impractical. Tokos said it's not unrealistic to put in the standards that there be an engineer's certification that the design meets or likely would withstand the forces of waves attributed to whatever level of tsunami. He said he could work on language. Berman said the height is the thing. If it's 80 feet, that's what we should be planning for. Capri wondered what elevation that's taken from. Hardy said that waves are typically measured from the ocean floor. Vanderbeck wondered if it could be set up so that it's just for that particular area. She said because when you're talking about anything having to do with height, people will want to build something on top to get higher and will try to do whatever they can. Capri noted that there's no view protection in Newport. Hardy agreed that you don't own air space. Patrick asked what the purple and yellow on the maps indicate. Tokos said they refer to "t-shirt-size characteristics; S, M, L, XL, and XXL. Berman asked, as the color gets lighter is there more extreme flooding? Franklin asked if it would be at sea level. Patrick said mean sea level at that time. Looking at Oceanview, Franklin asked if it's at 70 feet, there would be a 10-foot wave then? Tokos said this is the elevation where they check Oceanview. At about 75 feet, Oceanview gets overtopped with XL or XXL. Vertical escape would be 20 feet. Tokos said if you have developable property and build a house there, it would not be ridiculous to build to withstand 35 feet. Berman said we're talking about Hatfield; that's what initiated this. They're right in the middle of purple. Franklin wondered what's going to happen after the wave when the water's rushing back out and there's no sand left underneath it.

Tokos said we could put some language about having to have an engineer's certification. Hardy asked how long that's good for in terms of the interest of the consumer. Are they protected if it gets passed when it's getting built and then fails ten years down the road? Tokos said probably not. We evaluate at the time of construction; not how long those materials last. Hardy said if the engineer doesn't provide a warranty, then what use is it. Capri said they could hire a structural engineer to do it and then have to hire a geo tech engineer to review it. Tokos said it's not unreasonable for a local jurisdiction to say if you're going to do this, you are going to do it right. Provide engineered plans that set out how it withstands whatever tsunami you are designing to. That knocks out single-family residences. Maybe they're just designing to large; they choose. Berman said we wouldn't dictate, they pick. Then we say, prove it. Franklin said what if somebody builds a cupola on top for escape; who enforces it? He doesn't know how you'd enforce it.

Tokos asked if the Commission wants language that limits this to water-dependent or water-related, or even commercial. Patrick thought so. He doesn't see it working for single-family. Vanderbeck said that hotels could build up in someone's view. Tokos said, or maybe it could be not in an area where you can reasonably get out of there. There's a big chunk in South Beach that can't get out. Hardy asked why build that low anyway. Patrick thought that if we break the 50-foot limit, we don't want to give an open height thing. We might have to write standards for it. He's not enthusiastic about saying you can bust through 50 feet to 70 feet. Tokos said he'd rather not do a variance because the standards aren't a great fit; hardship or practical difficulty in meeting the code. You can meet the code; just don't build vertical evacuation. Berman said he thought it was a conditional use because he noted that in the code above that it says antennas upon the issuance of a conditional use permit. Tokos said he was looking on the back of the code all the way at the bottom where it says adjustment or variance. Berman said they could take out a conditional use permit if they want to exceed 50 feet. Tokos asked Berman what's magical about 50 feet. Berman said that's what's in the code. Tokos said not in water-related; that's 35 feet. He said that one of the standards for a conditional use permit is consistency with the character of the area. If it gets into a contested case, he's not positive that the discretionary criteria the Planning Commission would have to rationalize would withstand an appeal.

Patrick asked how tall is this building going to end up. How much is it breaking the 35-foot limit. Tokos said he believes the full set of materials released indicate they are targeting a large event; not XXL. He doesn't think they could design something to withstand XXL. The question with a discretionary review is what do you want to evaluate against. Patrick said what if we give an exception to go over 35 feet in South Beach. He said we had the same discussion with NOAA. So we better have something to stand on. If all of a sudden they do a 60-foot structure there, we won't hear the end of it. Tokos said if that is a habitable area. It's only for vertical evacuation, and that's a big expense for what it is. If they can only add a safe haven for employees, there's a point where they will stop adding to it. We're making sure they don't have ways of getting additional floors of offices. Berman asked what goes between the 60 feet and the 35 feet. Tokos said raised ceilings, attic area, or just mechanical. Berman said 40 feet would be the floor and then it said add 30% and another 10 feet. Hanselman said that's only proposing vertical evacuation for 40 feet of flood level; it would have to be above that, so about 49 feet. Capri said you're talking 70 feet, and we'd never hear the end of it. Tokos asked what standards do you apply? Concerning the discretionary criteria, we can't use it and put the Planning Commission in a pickle where you can't issue the decision that you want to make. Capri said we can tell them they can't have it unless it's under a certain height. Tokos said you can have a cap. Hanselman asked, if we tell people they can have an evacuation level, do we also have to set standards for what that has to be built to.

Tokos said what if we set it up for water-dependent and water-related because we can justify that essential facilities that are available in other zoning districts can't be put in tsunami zones; and W-1 and W-2 areas would be inundated in a tsunami. Further, you have to provide engineering and geo tech methodology that what you are proposing will withstand the wave velocity you are designing to; and you can't have habitable space above 30 feet. How many projects are you likely to see? Capri said in theory, the Bay Front could have 70-foot buildings. Pacific Shrimp could do it. Patrick said it would be easier for them to evacuate up the hill. Tokos said even with reinforced piling, they would have to swap it out. It would be a huge expense. Capri asked if it could be just for South Beach. Tokos said that McLean Point is another area. The Commissioners said that at McLean Point, they could run across the road. Tokos said that while the Bay Front has an area to evacuate to, there are a lot of tourists and employees. There are constrained avenues and unstable slopes on the Bay Front. They would have twenty to thirty minutes to evacuate. There would be disabled people. By the time they figure out they need to go somewhere, there may not be time to go up hill. Tokos said you could limit it to South Beach; but his suggestion is not to. He thinks the rationale would be better to state it as just in water-related and water-dependent zones. Hardy asked, and those are defined as? Tokos said whatever they're defined as in the code. Hardy said maybe we should look at amending that. Hardy said the only way Hatfield is related to water is to be able to go out on the ocean. That doesn't mean the building siting has to be on the water. Berman said they do run seawater through their facility. Hardy said you can pipe seawater anywhere. She said they have already acknowledged that the existing buildings won't stand up. Even if there's a new building there, they will have to pay payroll to their people even though they can't go to work. She said, why not just go up hill. Tokos said from the City Council there is a lot of momentum particularly in the Hatfield area that they want to see the actual classrooms in the same location as the rest of the agency. Hardy said, in their own words, if they locate the facility up the hill, they are still spending most of the days at Hatfield. Why do they need that facility? Tokos said what getting the students up in Wilder accomplishes is that now they're not down there 24/7. Housing is gone from the campus, so they wouldn't be down there 24/7. Capri said you can't change OSU's opinion. Berman said they have laboratories there. Hardy said, they're classrooms. Tokos said they are going to need access to seawater facilities and some of the other State and Federal agencies. Berman said we're not going to decide where they're going; they are. Hardy said only if they're in compliance with the zoning ordinance. She said they can apply for a variance or a conditional use permit; and those evaluations will start to quell some of those voices saying don't build there.

Tokos said what the City Council asked the Planning Commission to do is explore legislative options as opposed to a variance. Those discretionary standards can be inconsistently applied and appealed over and over again. Practical difficulties are looked at tightly in the courts. Can you do anything on your property? Someone can't get front-yard setback; that's the typical kind of variance that can withstand an appeal. They would say you don't have to do vertical evacuation; what's your hardship? Capri thought that if everyone on the City Council heard that the building would have to be 70-75 feet tall, there would be less interest. It changes the morphology of the buildings in Newport. Tokos said if you want to make sure it's discretionary; what kind of standards do you put at it? With something like a conditional use, you'll never get there. Vanderbeck asked why the City Council wants to accommodate them before they're asked. Tokos said we don't. From the City Council's perspective, they anticipate that something's going to happen. There may be more than one down the road. There are new maps and new understanding of the tsunami risk. The height restrictions were put in before that was known. They feel we should look at it legislatively. They asked the Planning Commission to explore this and tell them what a good tool is. Hardy agreed it would be easier to enforce with legislation rather than a variance. If it's designed properly, you can say this is what you could do. If it's discretionary, you end up all over the place.

Capri said basically the building will be 75 feet tall. Tokos said if they have to engineer it to withstand that kind of wave force, you're talking substantial costs. This is a huge project without additional habitable space and only for life safety purposes at that point. Hardy said they have already indicated that they are willing to reduce the square footage if they reach the \$50 million cap they are looking at. They will end up with a much smaller building.

Tokos said we can get away with requiring engineering certification for a safe place to go, much like with our geologic permits. We are not second guessing them; we are just saying you have to do it and we will accept the engineer's stamp. Capri said that

takes out the Bay Front because they won't be able to do that on piles. Berman said if we get language in there for a 75-foot building, that's not in character with the vision of South Beach. He doesn't want the views and the feeling of the marine area disrupted with a tall building. Tokos said you have the LNG tank. Patrick said you have the jail at 60 feet to the elevator tower. Hanselman said they are not required to build vertical evacuation. If they want it, it has to meet these engineering standards. We're already dealing with an unknown class of tsunami. He said we will have to change everything.

Tokos asked if the Commissioners were comfortable with the reference to the TIM (tsunami inundation maps); and they confirmed that they were. Tokos said his thought for what he can do for an upcoming work session is to bring back two options. One would be beefed-up nondiscretionary engineering standards and geo tech. Then a discretionary option where he will try to make something up where there would be a hearing. Capri asked if you could base it on occupancy. Patrick said they will open up that building to everybody down there. Capri said he understands that's choosing life. Patrick said we could always limit it to 35 feet, and they could do it; or we could say you have to run to Safe Haven Hill, and that's your only choice.

Tokos said one thing advantageous for having vertical evacuation down there is the same as for the Bay Front. You have the aquarium, Hatfield, and RV parks. It will take time for them to figure out what's going on, and some can't get out. Somebody will know to go to that vertical evacuation site. It's a safety measure. Patrick said all of these things assume earthquakes. At that level we don't know how much that is going to shift everything up and down. It's a shear guess. Hardy agreed that we don't have direct experience here. Capri asked what about the handicapped and was told that it's assumed people will help others.

Tokos said he will put together discretionary and nondiscretionary standards for further discussion at a work session. He thinks we'll get nowhere with discretionary. There was discussion about the occupancy limit of Safe Haven Hill. Tokos said the thought is that some people won't be able to get there because it's too far or they can't, so it's better to have vertical evacuation where they can go. We want to create different opportunities because we don't know where they'll go. Berman said for evacuations, most of the people at Hatfield are healthy. Tokos said it's more the tourists.

Tokos said the Commission could go through with legislative with options "A" and "B" and say you prefer "A," but here is option "B" the Council can also consider.

4. Adjournment. Having no further discussion, the meeting adjourned at 7:33 p.m.

Respectfully submitted,

Wanda Haney,
Executive Assistant

PLANNING STAFF REPORT

Case File No. 3-CUP-16

- A. **APPLICANT:** William Wren & Kyle Lowe (Jim & Carol Ruggeri, property owners).
- B. **REQUEST:** Approval of a Conditional Use Permit, per Section 14.03.070(8)(a)/“Commercial and Industrial Uses/Manufacturing and Production/Light Manufacturing” of the Newport Zoning Ordinance, in order to operate a recreational marijuana grow facility. The facility will be located in an existing 6,000 square foot warehouse building, with the area designated for growing marijuana plants being limited to a 1,250 square foot footprint within the structure. The subject property is located in a C-3/“Heavy Commercial” zone, where manufacturing and production (i.e. growing) is permitted as a light manufacturing use following the issuance of a conditional use permit.
- C. **LOCATION:** 1240 NW Grove Street.
- D. **LEGAL DESCRIPTION:** Tax Lot 04500, County Assessor’s Tax Map 11-11-05-BD.
- E. **LOT SIZE:** 7,490.7 sq. ft. (0.17 acre) per the County Assessor’s map.
- F. **STAFF REPORT**
 - 1. **REPORT OF FACT**
 - a. **Plan Designation:** Commercial.
 - b. **Zone Designation:** C-3/“Heavy Commercial.”
 - c. **Surrounding Land Uses:** Other commercial uses.
 - d. **Topography and Vegetation:** Asphalted lot.
 - e. **Existing Structures:** A vacant approximately 6,000 sq. ft. warehouse building.
 - f. **Utilities:** All are available to the site.
 - g. **Development Constraints:** None known.
 - h. **Past Land Use Actions:** None known.
 - i. **Notification:** Notification to surrounding property owners and to city departments/public agencies was mailed on August 9, 2016; and the notice of public hearing was published in the Newport News-Times on September 2, 2016.

j. **Attachments:**

Attachment "A" – Application form
 Attachment "A-1" – Applicant's written findings of fact
 Attachment "A-2" – Building photographs
 Attachment "A-3" – Building floor plan
 Attachment "A-4" – Business operation plan
 Attachment "B" – Zoning map of the area
 Attachment "C" – August 26, 2016, letter from Carol Ruggeri
 Attachment "D" – Notice of public hearing
 Attachment "E" – C-3 Zoning District Uses Handout

2. **Explanation of the Request:** Pursuant to Section 14.03.070(8)(a)/"Commercial and Industrial Uses/Manufacturing and Production/Light Manufacturing" of the Zoning Ordinance, manufacturing and production (i.e. growing) requires a conditional use permit to be located in a C-3/"Heavy Commercial" zoning district. With this application, Mr. Wren and Mr. Lowe are seeking approval of a conditional use permit to use an approximately 6,000 square foot warehouse as a recreational marijuana grow facility. The applicant notes that they have applied for a Micro Tier II license from the Oregon Liquor Control Commission, which will limit the grow canopy (i.e. surface area utilized to produce mature marijuana plants) to 1,250 square feet.

3. **Evaluation of the Request:**

- a. **Comments:** All surrounding property owners and affected city departments and public utilities were notified on August 9, 2016. The notice was published in the Newport News-Times on September 2, 2016. A letter dated August 26, 2016, was received from the property owner, Carol Ruggeri, stating that this proposed use is a very unobtrusive use of the property. She noted that all of the other uses that are allowed outright in the C-3 zone would cause more traffic, noise, and strain on the neighbors than this proposed light manufacturing use.

b. **Conditional Use Criteria (Section 14.34.050):**

- (1) The public facilities can adequately accommodate the proposed use.
- (2) The request complies with the requirements of the underlying zone or overlay zone.
- (3) The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.
- (4) A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

c. **Staff Analysis:**

In order to grant the permit, the Planning Commission must find that the applicant's proposal meets the following criteria.

(1) **The public facilities can adequately accommodate the proposed use.**

Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets and electricity. The applicant notes that they believe the commercial warehouse can adequately accommodate a marijuana grow site.

All services are currently available to the property. The building fronts Grove Street, which is an improved public street. Water service is provided via a six inch main along Grove Street. Sewer service is available from Grove Street as well, from an eight inch main. A storm drainage system is in place along Grove Street and the subject property ties into the drainage system with a catch basin located in the parking lot just outside of the road right-of-way.

The property owner, Carol Ruggeri, noted in her letter of August 16th that this request will not tax the water, sewer, or street use. She also notes that electric use will go up, but that Central Lincoln People's Utility District (PUD) can adequately supply that. There is no information in the record indicating that Central Lincoln PUD has confirmed the existing service is sufficient. It is reasonable for the Planning Commission to confirm that it is feasible that sufficient power can be provided to the site to satisfy the grow operation's needs, but may want to stipulate that the applicant confirm with Central Lincoln that the existing service to the warehouse is adequate for this use.

Given the above, it is reasonable for the Planning Commission to find that the public facilities can adequately accommodate a production use of this nature.

(2) **The request complies with the requirements of the underlying zone or overlay zone.**

This criterion addresses special requirements of the underlying or overlay zone beyond the standard zoning ordinance requirements. The production of marijuana (i.e. growing) is considered to be a light-industrial use provided it is wholly contained within a structure (NMC 14.03.060(D)(2)). The applicant proposes to conduct the grow operation inside an existing warehouse building, consistent with this requirement. The Planning Commission may impose a condition of approval stipulating that no portion of the grow operation is to be conducted outside of the building, so that current and future operators are aware of this limitation.

Given the above, it is reasonable for the Planning Commission to find that this criterion is satisfied.

- (3) The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.

This criterion relates to the issue of whether or not the proposed use has potential "adverse impacts" greater than existing uses and whether conditions may be attached to ameliorate those "adverse impacts." Impacts are defined in the Zoning Ordinance as the effect of nuisances such as dust, smoke, noise, glare, vibration, safety, and odors on a neighborhood.

The applicant explains that the property will allow them to produce indoor marijuana. They are seeking approval from the Oregon Liquor Control Commission (OLCC) for a Micro Tier II canopy size, which allows up to 1,250 square feet of warehouse space to be dedicated to growing marijuana plants. The property has eight parking spaces to accommodate employees or other contractors that will be needed. The applicant indicates that the grow site will not have an adverse impact on nearby properties because they will only allow authorized people on the premises. To control the odor, they will use carbon filters. This will remove contaminants and impurities from the air using chemical absorption.

The applicant further explains that the goal is to produce 90% of their own product with a recreational producer's license issued by the OLCC. Their objective is to harvest three to four times a year. In order to keep a consistent cycle, there will be three rooms; the vegetative room, the flower room, and the drying room. The vegetative room is where the immature plants are grown to fit the designated canopy area before being moved into the flower room. The drying room is where the product will hang and cure until it is completely finished.

The applicant notes that the product will be grown using the most efficient and safest lamps available. They will use a commercial air conditioner to help imitate the environment that the plants need to produce top-quality flower. The product is an organic, and there are no added supplements or pesticides to improve the outcome.

The property owner noted in her letter of August 16th that existing uses in the vicinity include a car collision center, a contractor, a retail/screen-printing manufacturer, a retail/warehouse baked goods facility, a mini warehouse facility with a number of retail businesses (Platt Electric and Aboveboard Electric), a pet daycare, and a sheet metal shop. The owner states that all of these uses cause considerably more traffic and noise than this proposed use. This use will be unobtrusive in that there will be no visible signs from the outside of what is being produced there, and only three or four employees will be parking in the designated parking lot. Further, there will be no building modification from the outside. It will remain unchanged from its current configuration.

Given the above, it is reasonable for the Planning Commission to find that this criterion has been satisfied.

- (4) A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

As stated above, the owner notes that no changes will be made to the exterior of the building.

Given the above, it is reasonable for the Planning Commission to find this criterion has been satisfied.

4. **Conclusion:** If the Planning Commission finds that the applicant has met the criteria established in the Zoning Ordinance for granting a conditional use permit, then the Commission should approve the request. The Commission can attach reasonable conditions that are necessary to carry out the purposes of the Zoning Ordinance and the Comprehensive Plan. If the Commission finds that the request does not comply with the criteria, then the Commission should deny the application.

G. **STAFF RECOMMENDATION:** As outlined in this report, this application can satisfy the approval criteria for a conditional use, and the Commission may want to impose the following conditions of approval to ensure that the criteria are met:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.
2. The production (i.e. growing) of marijuana shall be wholly contained within the existing building.
3. The applicant shall confirm with the Central Lincoln PUD that existing service to the warehouse is adequate prior to occupancy. Any changes to the electrical service to the exterior or interior of the building shall be performed in accordance with the State of Oregon Electrical Specialty Code and City of Newport electrical permit.



Derrick I. Tokos AICP
Community Development Director
City of Newport

September 9, 2016



City of Newport Land Use Application

Applicant Name(s): William Wren Kyle Lowe	Property Owner Name(s): Jim Ruggeri Carol Ruggeri
Applicant Mailing Address: 404 Main St Toledo, OR 97391	Property Owner Mailing Address: 1121 SE Spruce Way, Newport OR 97365
Applicant Phone No. 909 331 7242	Property Owner Phone No. 541 265 6867
Applicant Email bwren16@gmail.com	Property Owner Email
Authorized Representative(s): William Wren Kyle Lowe <small>Please print name and submit and act on this application on applicant's behalf</small>	
Authorized Representative Mailing Address: P.O. Box 877 Toledo, OR 97391	
Authorized Representative Telephone No. 909 331 7242 916 622 3317	
Authorized Representative Email. bwren16@gmail.com	

Project Information

Property Location: <small>Street name if address # not assigned</small> 1240 NW Grove St.	
Tax Assessor's Map No.: 11-11-05-BD	Tax Lot(s): 4500
Zone Designation: C-3	Legal Description: <small>Add additional sheets if necessary</small>
Comp. Plan Designation:	
Brief description of Land Use Request(s): <small>Examples:</small> 1. Recreational marijuana grow 2. Variance of 2 feet from the required 5-foot front yard setback	
Existing Structures: if any	
Topography and Vegetation:	

Application Type (please check all that apply)

- | | | |
|---|---|---|
| <input type="checkbox"/> Annexation
<input type="checkbox"/> Appeal
<input type="checkbox"/> Comp Plan/Map Amendment
<input checked="" type="checkbox"/> Conditional Use Permit
<input type="checkbox"/> PC
<input type="checkbox"/> Staff
<input type="checkbox"/> Design Review
<input type="checkbox"/> Geologic Permit | <input type="checkbox"/> Interpretation
<input type="checkbox"/> Minor Replat
<input type="checkbox"/> Partition
<input type="checkbox"/> Planned Development
<input type="checkbox"/> Property Line Adjustment
<input type="checkbox"/> Shoreland Impact
<input type="checkbox"/> Subdivision
<input type="checkbox"/> Temporary Use Permit | <input type="checkbox"/> UGB Amendment
<input type="checkbox"/> Vacation
<input type="checkbox"/> Variance/Adjustment
<input type="checkbox"/> PC
<input type="checkbox"/> Staff
<input type="checkbox"/> Zone Ord/Map
<input type="checkbox"/> Amendment
<input type="checkbox"/> Other |
|---|---|---|

FOR OFFICE USE ONLY

625-16-000042-PLN4		File No. Assigned: 3-CUP-16
Date Received: 8/8/16	Fee Amount: 77200	Date Accepted as Complete:
Received By: wh	Receipt No.	Accepted By:

City Hall
 169, SW Coast Hwy
 Newport, OR 97365
 541.574.0629



City of Newport Land Use Application

I understand that I am responsible for addressing the legal criteria relevant to my application and that the burden of proof justifying an approval of my application is with me. I also understand that this responsibility is independent of any opinions expressed in the Community Development and Planning Department Staff Report concerning the applicable criteria.

I certify that, to the best of my knowledge, all information provided in this application is accurate.

William Wren

Applicant Signature(s)

8/8/16

Date

Carol B Ruggeri

Property Owner Signature(s) (if other than applicant)

8-8-16

Date

Authorized representative Signature(s) (if other than applicant)

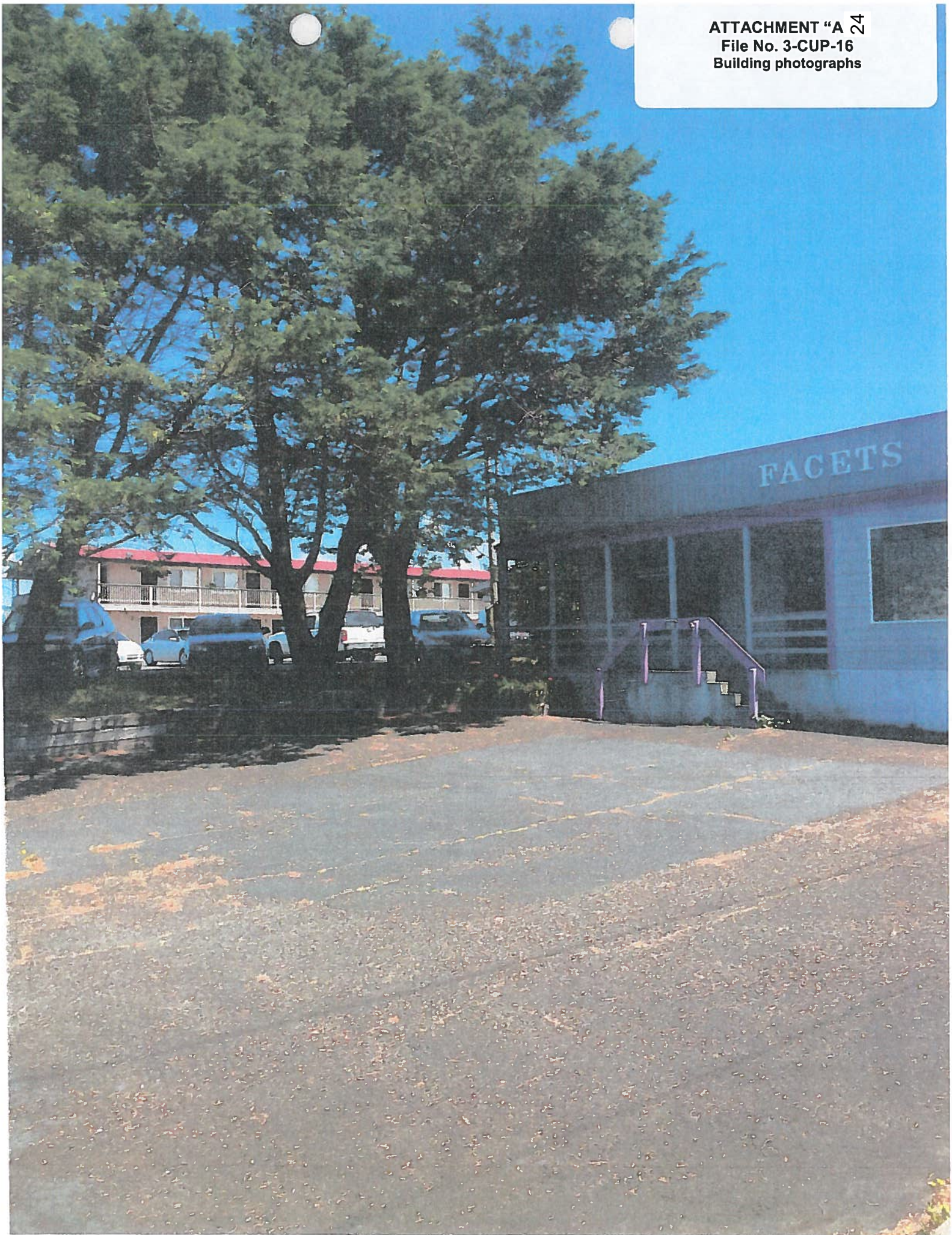
Date

Please note application will not be accepted without all applicable signatures.

Please ask staff for a list of application submittal requirements for your specific type of request.

Written Findings of Fact

The commercial warehouse located at 1250 grove st can adequately accommodate a marijuana grow site. The property is zoned c-3 and it does not have any conflicting underlay or overlay zones. The property will allow us to produce indoor marijuana. We will have a micro tier II canopy size which allows up to 1250 square feet to grow. The property has 8 parking spots to accommodate employees or other contractors that will be needed. The grow site will not have an adverse impact on nearby properties because we will only allow authorized people on the premises. To control the odor we will use carbon filters. This will remove contaminants and impurities from the air using chemical adsorption. At this time we do not need any building modifications.



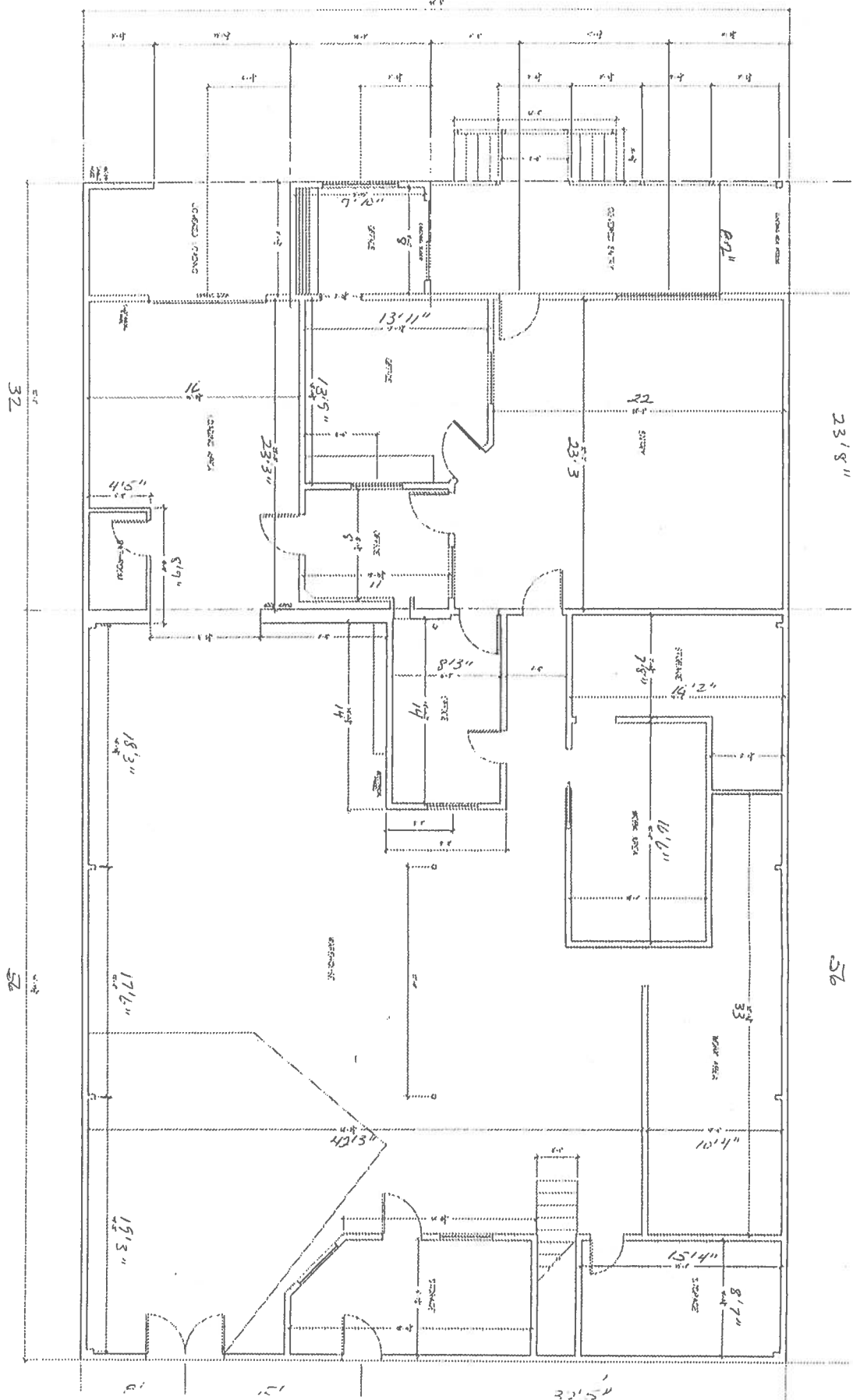




FACETS



LEVEL 1 EXISTING FLOOR PLAN



Operation Plan

Oregon Coast Dispensary strives to provide quality medicine to our community for reasonable prices. As the cannabis industry continues to thrive, we need to expand our grow operation in order to keep up with the demand. The goal is to produce 90% of our own product with a recreational producers license issued by the OLCC. A micro tier II license will allow us to grow a canopy up to 1250 square feet.

Our objective is to harvest 3 to 4 times a year. In order to keep a consistent cycle there will be three rooms, the vegetative room, the flower room, and the drying room. The vegetative room is where the immature plants are grown to fit the designated canopy area before being moved in to the flower room. The drying room is where the product will hang and cure until it is completely finished.

The product will be grown using the most efficient and safest lamps available. We will use a commercial air conditioner to help us imitate the environment that the plants need to produce top quality flower. The product is all organic and there are no added supplements or pesticides to improve the outcome. The average time per harvest will be between 3-4 months

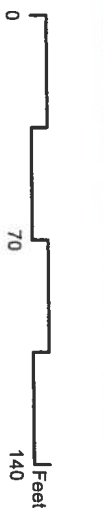


City of Newport
Community Development Department
188 SW Coast Highway
Newport, OR 97365
Phone: 541.574.0829
Fax: 541.574.0844

This map is for informational use only and has not been prepared by, nor is it liable for, legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its completion or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.

1240 NW Grove Street
(TL 4500, Assessor's Map 11-11-05-BD)

Image Taken July 2013
4-inch, A-band Digital Orthophotos
David Smith & Associates, Inc. Portland, OR



August 26, 2016

Planning Commission

City of Newport

169 SW Coast Highway

Newport OR 97365

AUG 29 2016
RECEIVED

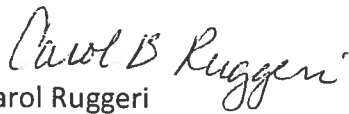
This is testimony to be considered for File No. 3-CUP-16, a conditional use permit for 1240 NW Grove Street, Newport

The *applicable criteria* for this zone and the proposed use are:

- 1) *Public facilities can accommodate the proposed use.* This request will not tax the water, sewer or street use. Electric use will go up, but the PUD can adequately supply that.
- 2) *It complies with the requirements of the zone.* This is a heavy commercial zone and manufacturing and production are permitted.
- 3) *The proposed use does not have an adverse impact greater than existing uses.* Existing uses are a car collision center, a contractor, a retail/screen printing manufacturer, a retail/warehouse baked good facility, a mini warehouse facility with a number of retail businesses (Platt Electric and Above Board Electric), a pet daycare, and a sheet metal shop. All of these existing uses cause considerably more traffic and noise than this proposed use. This use will be unobtrusive in that there will be no visible signs from the outside what is being produced there, and only 3 or 4 employees parking in the designated parking lot.
- 4) *Proposed building modification.* There will be no building modification from the outside, it will remain unchanged from its current configuration.

As you are aware, some of the permitted uses in a C-3 zone are vehicle repair and contractors, of which there are already (the contractor leaves a flat bed truck on the street and uses it as a dumpster); a drug and alcohol center; soup kitchen; daycare; and freight moving warehouses. All of these outright uses would cause more traffic, noise and strain on the neighbors than this proposed light manufacturing use.

I would urge you to approve this application as it is a very unobtrusive use of the property.


Carol Ruggeri

Property owner

Wanda Haney

From: Amanda Phipps <aphipps@newportnewstimes.com>
Sent: Tuesday, August 09, 2016 2:19 PM
To: Wanda Haney
Subject: RE: City of Newport legal notice

Wanda,
We have received your notice and will publish accordingly.

Thank you,

Amanda Phipps
Circulation
News-Times
541-265-8571
541-265-3862 (fax)
aphipps@newportnewstimes.com
www.newportnewstimes.com

From: Wanda Haney [mailto:W.Haney@NewportOregon.gov]
Sent: Tuesday, August 09, 2016 12:25 PM
To: 'Amanda Phipps'
Subject: City of Newport legal notice

Attached is a legal notice of a Planning Commission public hearing for publication once on **FRIDAY, SEPTEMBER 2, 2016**, please. If you would, please return a confirmation email letting me know this was received & that it will publish on that day.

Thanks,

Wanda Haney
Executive Assistant
City of Newport
Community Development Department
169 SW Coast Hwy
Newport, OR 97365
541-574-0629
FAX: 541-574-0644
w.haney@newportoregon.gov

CITY OF NEWPORT NOTICE OF A PUBLIC HEARING

The City of Newport Planning Commission will hold a public hearing on Monday, September 12, 2016, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 3-CUP-16, a request submitted by William Wren and Kyle Lowe, 404 Main St., Toledo, OR 97365 (Jim & Carol Ruggeri, 1121 SE Spruce Way, Newport, OR 97365, property owner) per Section 14.03.070(8)(a)/“Commercial and Industrial Uses/Manufacturing and Production/Light Manufacturing” of the Newport Municipal Code, for a conditional use permit in order operate a recreational marijuana grow facility at 1240 NW Grove St. (Lincoln County Assessor’s Map 11-11-05-BD; Tax Lot 04500). The subject property is located in a C-3/“Heavy Commercial” zone, where manufacturing and production (i.e. growing) is permitted as a light manufacturing use following the issuance of a conditional use permit. The applicable criteria per NMC Chapter 14.34.050 are that: (1) The public facilities can adequately accommodate the proposed use; 2) the request complies with the requirements of the underlying zone or overlay zone; 3) the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval; and 4) a proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright. Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Submit testimony in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) seven days prior to the hearing. The application materials (including the application and all documents and evidence submitted in support of the application), the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at the above address. Contact Derrick Tokos, Community Development Director, (541) 574-0626, (address above).

FOR PUBLICATION ONCE ON FRIDAY, SEPTEMBER 2, 2016.

CITY OF NEWPORT NOTICE OF A PUBLIC HEARING¹

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Newport, Oregon, will hold a public hearing to consider the following Conditional Use Permit request:

File No. 3-CUP-16:

Applicant and Owner: William Wren & Kyle Lowe, 404 Main St., Toledo, OR 97391 (Jim & Carol Ruggeri, 1121 SE Spruce Way, Newport, OR 97365, property owner).

Request: Approval of a request per Section 14.03.070(8)(a)/“Commercial and Industrial Uses/Manufacturing and Production/Light Manufacturing” of the Newport Zoning Ordinance, for a conditional use permit in order to operate a recreational marijuana grow facility at 1240 NW Grove St. The subject property is located in a C-3/“Heavy Commercial” zone, where manufacturing and production (i.e. growing) is permitted as a light manufacturing use following the issuance of a conditional use permit.

Location: 1240 NW Grove St. (Lincoln County Assessor’s Map 11-11-05-BD; Tax Lot 04500).

Applicable Criteria: NZO Section 14.34.050: (1) The public facilities can adequately accommodate the proposed use; 2) the request complies with the requirements of the underlying zone or overlay zone; 3) the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval; and 4) a proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

Testimony: Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Submit testimony in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Community Development (Planning) Department (address below under "Reports/Application Material") must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application.

Reports/Application Material: The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, Oregon, 97365, seven days prior to the hearing. The application materials (including the application and all documents and evidence submitted in support of the application), the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at this address.

Contact: Derrick Tokos, Community Development Director, (541) 574-0626, (address above in "Reports/Application Material").

Time/Place of Hearing: Monday, September 12, 2016; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Material").

MAILED: August 9, 2016.

PUBLISHED: September 2, 2016/News-Times.

¹Notice of this action is being sent to the following: (1) Affected property owners within 200 feet of the subject property (according to Lincoln County tax records); (2) affected public/private utilities/agencies within Lincoln County; and (3) affected city departments.

Wanda Haney

From: Wanda Haney
Sent: Tuesday, August 09, 2016 12:29 PM
To: Derrick Tokos; Jim Protiva; Joseph Lease; Mark Miranda; Mike Murzynsky; Rob Murphy; Spencer Nebel; Ted Smith; Tim Gross; Victor Mettle
Subject: File No. 3-CUP-16
Attachments: DOC000.pdf

Attached is a notice of a Planning Commission public hearing for a conditional use permit for a recreational marijuana grow operation in a C-3 zone. Please review this information to see if you would like to make any comments. We would like to receive comments at least 10 days prior to the hearing. **Should no response be received, a "no comment" will be assumed.**

Thanks,

Wanda Haney

Executive Assistant

City of Newport

Community Development Department

169 SW Coast Hwy

Newport, OR 97365

541-574-0629

FAX: 541-574-0644

w.haney@newportoregon.gov

WILLIAM WREN &
KYLE LOWE
404 MAIN ST
TOLEDO OR 97391

JIM & CAROL RUGGERI
1121 SE SPRUCE WAY
NEWPORT OR 97365

HOCKEMA FAMILY LLC
3202 E ALSEA HWY
WALDPORT OR 97394

R E & R H BELLONI &
HOCKEMA FAMILY LLC
C/O UNITED STATES BAKERY LEASE
PO BOX 2609
VANCOUVER WA 98661

GCM HOSPITALITY LLC
ATTN: RAI GUNWANT
1311 N COAST HWY
NEWPORT OR 97365

JAMES E & SHARON E GORDON
PO BOX 2227
NEWPORT OR 97365

JESSIE R BRUNTSCH
TRUSTEE
1209 LORING ST
SAN DIEGO CA 92109

MICHAEL WILSON
PO BOX 113
NEWPORT OR 97365

ELMAR INVESTMENT LLC
1831 RIVERWOOD DR
EUGENE OR 97401

G & G INVESTMENTS
PO BOX 691
LINCOLN CITY OR 97367

KSD PROPERTIES LLC
ATTN: JEFF KOEHNKE
500 W SUBLIMITY BLVD
SUBLIMITY OR 97385

EXHIBIT "A"
MAILING LABELS
ADJACENT PROPERTIES

CITY OF NEWPORT
C-3/"HEAVY COMMERCIAL" ZONING DISTRICT USES

PERMITTED USES

Office

(examples: financial (lenders, brokers, bank hdqtrs.); data processing; professional svcs. (lawyers, accountants, engineers, architects, sales); government; public utilities; TV & radio studios; medical & dental clinics and labs; contractors (if equipment not kept on site).)

Retail Sales & Service

Sales-oriented, general retail

(examples: consumer, home, & business goods including art, art supplies, bicycles, books, clothing, dry goods, electronic equipment, fabric, pharmaceuticals, plants, printed material, stationery & video; food; vehicle service (but not repair of vehicles).)

Sales-oriented, bulk retail

(examples: stores selling large consumer home & business goods including appliances, furniture, hardware, home improvements; sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light & medium trucks & other recreational vehicles.)

Personal Services

(examples: bank branches; urgent medical care; laundromats; photographic studios; photocopy & blueprint svcs.; printing, publishing & lithography; hair, tanning & personal care svcs.; tax preparers, accountants, engineers, architects, real estate agents, legal, financial svcs.; art studios; art, dance, music, martial arts & other recreational or cultural classes/schools; taxidermists; mortuaries; veterinarians; kennels (limited to boarding & training w/no breeding); animal grooming.)

Entertainment

(examples: restaurants (sit-down & drive-thru); cafes; delicatessens; taverns & bars; hotels, motels, recreational vehicles & other temporary lodging (w/ avg. length of stay < 30 days); athletic, exercise & health clubs or gyms; bowling alleys, skating rinks, game arcades; pool halls; dance halls, studios & schools; theaters; indoor firing ranges; miniature golf facilities, golf courses & driving ranges.)

Repair-oriented

(examples: repair of TVs, bicycles, clocks, watches, shoes, guns, appliances & office equipment; photo or laundry drop-off; quick printing; recycling drop-off; tailor; locksmith; upholsterer.)

(C-3 Uses)

(PERMITTED USES CONTINUED)

Major Event Entertainment

(examples: fairgrounds; sports complexes; ball fields; exhibition & meeting areas; coliseums or stadiums; equestrian centers & animal arenas; outdoor amphitheater; theme or water parks.)

Vehicle Repair

(examples: vehicle repair; transmission or muffler shop; auto body shop; alignment shop; auto upholstery shop; auto detailing; tire sales & mounting.)

Self-Service Storage

(examples: single-story & multi-story facilities that provide individual storage areas for rent (aka mini warehouses).)

Parking Facility

(examples: short & long-term fee pkg. facilities; commercial district shared pkg. lots; commercial shuttle pkg.; park-&-ride lots.)

Contractors & Industrial Service

(examples: welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage, or wrecking heavy machinery, metal, & building materials; towing & vehicle storage; auto & truck salvage & wrecking; heavy truck servicing & repair; tire re-treading or recapping; truck stops; building, heating, plumbing, or electrical contractors; printing, publishing & lithography; exterminators; recycling operations; janitorial & building maintenance svcs.; fuel oil distributors; solid fuel yards; research & development labs; dry-docks & repair or dismantling of ships & barges; laundry, dry-cleaning & carpet cleaning plants; photofinishing labs.)

Warehouse, Freight Movement & Distribution

(examples: separate warehouses used by retail stores such as furniture & appliance stores; household moving & general freight storage; cold storage plants including frozen food lockers; storage of weapons & ammunition; major wholesale distribution centers; truck, marine, or air freight terminals; bus barns; parcel services; major post offices; grain terminals; stockpiling sand, gravel, or other aggregate materials.)

Wholesale Sales

(examples: sale or rental of machinery, equipment, heavy

(PERMITTED USES CONTINUED)

trucks, bldg. materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment & store fixtures; mail-order houses; wholesalers of food, clothing, auto parts, bldg. hardware & office supplies.

Basic Utilities & Roads

(examples: water & sewer pump stations; sewage disposal & conveyance systems; electrical substations; water towers & reservoirs; water quality & flow control devices; water conveyance systems; stormwater facilities & conveyance systems; telephone exchanges; suspended cable transportation systems; bus stops or turnarounds; local, collector & arterial roadways; highway maintenance.)

Community Service

(examples: churches; libraries; museums; senior centers; community centers; publicly-owned swimming pools; youth club facilities; hospices; police stations, fire & ambulance stations; drug & alcohol centers; social service facilities; mass shelters or short-term housing (when operated by a public or non-profit agency); soup kitchens; surplus food distribution centers.)

Daycare Facility

(examples: preschools, nursery schools, latch key programs (more than 12 children under age 13 outside their homes); adult daycare programs.)

Educational Institutions

College & Universities

Trade/Vocational Schools/Other

(examples: universities, liberal arts colleges, community colleges, nursing & medical schools (not accessory to a hospital), seminaries, public & private daytime schools, boarding schools, military academies, trade/vocational schools.)

Courts, Jails & Detention Facilities

(examples: courts, prisons, jails, probation centers, juvenile detention homes.)

Communication Facilities

(examples: broadcast towers, communication/cell towers, point-to-point microwave towers.)

CONDITIONAL USES

Manufacturing & Production

Light Manufacturing

(examples: light industrial uses that do not generate

(CONDITIONAL USES CONTINUED)

excessive noise, dust, vibration, or fumes including processing food & related products (where activities are wholly contained w/in a structure) such as bakery products, canned & preserved fruits & vegetables, sugar & confectionary products & beverages; catering establishments; breweries, distilleries & wineries; manufacture of apparel or other fabricated products made from textiles, leather, or similar materials; woodworking including furniture & cabinet making; fabrication of metal products & fixtures; manufacture or assembly of machinery equipment or instruments including industrial, commercial & transportation equipment, household items, precision items, photographic, medical & optical goods, artwork, jewelry & toys; manufacture of glass, glassware & pressed or blown glass; pottery & related products; printing publishing & lithography production; sign-making; movie production facilities.)

Waste & Recycling Related

(examples: sanitary landfills; limited-use landfills; waste composting; energy recovery plants; sewer treatment plants; portable sanitary collection equipment storage & pumping; hazardous waste collection sites.)

Utility, Road & Transit Corridors

(examples: highways; rail trunk & feeder lines; regional electrical transmission lines; regional gas & oil pipelines.)

Educational Institutions

Elementary & Secondary Schools

(examples: elementary, middle & high schools.)

Hospitals

(examples: hospitals & medical complexes that include hospitals or emergency care facilities.)

PROHIBITED USES

Manufacturing & Production

Heavy Manufacturing

(examples: industrial uses that should not be located near residential areas due to noise, dust, vibration, or fumes including processing food & related products (where some portion of the materials are stored or processed outdoors) such as dairies, slaughter houses, or feed lots; leather tanning & finishing; weaving or production of

(PROHIBITED USES CONTINUED)

textiles; lumber mills, pulp & paper mills & other wood products mfg.; production of chemicals, rubber, structural clay, concrete, gypsum, plaster, bone, plastic, or stone products; primary metal industries including blast furnaces, foundries, smelting & rolling & finishing metal products; production & refinement of fossil fuels; concrete batching; asphalt mixing; mfg. of prefabricated structures including mobile homes.

Mining**Sand & Gravel****Crushed Rock****Non-Metallic Minerals****All Others**

(examples: sand & gravel extraction; excavation of rock; mining of non-metallic minerals.)

**BEFORE THE PLANNING COMMISSION
OF THE CITY OF NEWPORT,
COUNTY OF LINCOLN, STATE OF OREGON**

IN THE MATTER OF PLANNING COMMISSION)	
FILE #3-CUP-16, APPLICATION FOR A)	
CONDITIONAL USE PERMIT AS SUBMITTED BY)	FINAL
WILLIAM WREN & KYLE LOWE (JIM & CAROL)	ORDER
RUGGERI, PROPERTY OWNERS))	

ORDER APPROVING A CONDITIONAL USE PERMIT per Section 14.03.070(8)(a)/“Commercial and Industrial Uses/Manufacturing and Production/Light Manufacturing” of the Newport Zoning Ordinance, in order to operate a recreational marijuana grow facility located in an existing 6,000 square foot warehouse building at 1240 NW Grove Street, with the area designated for growing marijuana plants being limited to a 1,250 square foot footprint within the structure.

WHEREAS:

- 1) The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance; and
- 2) The Planning Commission has duly held a public hearing on the request, with a public hearing a matter of record of the Planning Commission on September 12, 2016.
- 3) At the public hearing on said application, the Planning Commission received testimony and evidence; and
- 4) At the conclusion of said public hearing, after consideration and discussion, upon a motion duly seconded, the Planning Commission **APPROVED** the request.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit “A”) support the approval of the requested conditional use permit with the following condition(s):

- 1) Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the Staff Report. No work shall occur under this permit other

than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.

- 2) The production (i.e. growing) of marijuana shall be wholly contained within the existing building.
- 3) The applicant shall confirm with the Central Lincoln PUD that existing service to the warehouse is adequate prior to occupancy. Any changes to the electrical service to the exterior or interior of the building shall be performed in accordance with the State of Oregon Electrical Specialty Code and may be subject to a City of Newport electrical permit.

BASED UPON THE ABOVE, The Planning Commission determines that the request for a Conditional Use Permit to operate a recreational marijuana grow facility is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport, and the request is therefore granted.

Accepted and approved this 12th day of September, 2016.

James Patrick, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 3-CUP-16

FINDINGS OF FACT

1. William Wren & Kyle Lowe (Jim & Carol Ruggeri, property owners) submitted an application on August 8, 2016, for approval of a Conditional Use Permit, per Chapter 14.03.070(8)(a)/“Commercial and Industrial Uses/Manufacturing and Production/Light Manufacturing” of the Newport Zoning Ordinance, in order to operate a recreational marijuana grow facility. The facility will be located in an existing 6,000 square foot warehouse building, with the area designated for growing marijuana plants being limited to a 1,250 square foot footprint within the structure. The subject property is located in a C-3/“Heavy Commercial” zone, where manufacturing and production (i.e. growing) is permitted as a light manufacturing use following the issuance of a conditional use permit.
2. The subject property is located at 1240 NW Grove Street (Lincoln County Assessor’s Map 11-11-05-BD, Tax Lot 04500). The lot size is 7,490.7 sq. ft. (0.17 acre) per the Lincoln County Tax Assessor’s map.
3. Staff reports the following facts in connection with the application:
 - a. Plan Designation: Commercial.
 - b. Zone Designation: C-3/“Heavy Commercial.”
 - c. Surrounding Land Uses: Other commercial uses.
 - d. Topography and Vegetation: Asphalted lot.
 - e. Existing Structures: A vacant approximately 6,000 sq. ft. warehouse building.
 - f. Utilities: All are available to the site.
 - g. Development Constraints: None known.
 - h. Past Land Use Actions: None known.
4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on August 9, 2016, to affected property owners required to receive such notice by the Newport Zoning Ordinance, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 5:00 p.m., September 12, 2016, or be submitted in person at the hearing. The notice was also published in the Newport News-Times on September 2, 2016. A letter was received from Carol Ruggeri, the property owner, dated August 26, 2016 (Attachment “C”).
5. A public hearing was held on September 12, 2016. At the hearing, the Planning Commission received the staff report and heard testimony from the applicant. The minutes of the September 12, 2016, hearing are hereby incorporated by reference. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

Attachment "A" – Application Form
 Attachment "A-1" – Applicant's written findings of fact
 Attachment "A-2" – Building photographs
 Attachment "A-3" – Building floor plan
 Attachment "A-4" – Business operation plan
 Attachment "B" – Zoning Map of the Area
 Attachment "C" – August 26, 2016, letter from Carol Ruggeri
 Attachment "D" – Notice of Public Hearing
 Attachment "E" – C-3 Zoning District Uses Handout

6. Pursuant to Section 14.03.070(8)(a) "Commercial and Industrial Uses/Manufacturing and Production/Light Manufacturing" of the Zoning Ordinance, manufacturing and production (i.e. growing) requires a conditional use permit to be located in a C-3/"Heavy Commercial" zoning district. With this application, Mr. Wren and Mr. Lowe are seeking approval of a conditional use permit to use an approximately 6,000 square foot warehouse as a recreational marijuana grow facility. The applicant notes that they have applied for a Micro Tier II license from the Oregon Liquor Control Commission, which will limit the grow canopy (i.e. surface area utilized to produce mature marijuana plants) to 1,250 square feet.

7. The applicable criteria for the conditional use request are found in NMC Section 14.34.050:

- a. The public facilities can adequately accommodate the proposed use.
- b. The request complies with the requirements of the underlying zone or overlay zone.
- c. The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.
- d. A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

CONCLUSIONS

Regarding the applicable criteria for the conditional use request, the following conclusions can be made:

A. *Criterion #1. The public facilities can adequately accommodate the proposed use.*

1. Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets, and electricity.
2. The applicant notes that they believe the commercial warehouse can adequately accommodate a marijuana grow site.
3. All services are currently available to the property. The building fronts Grove Street, which is an improved public street. Water service is provided via a six inch main along Grove Street. Sewer

service is available from Grove Street as well, from an eight inch main. A storm drainage system is in place along Grove Street and the subject property ties into the drainage system with a catch basin located in the parking lot just outside of the road right-of-way.

4. The property owner, Carol Ruggeri, noted in her letter of August 16th that this request will not tax the water, sewer, or street use. She also notes that electric use will go up, but that Central Lincoln People's Utility District (PUD) can adequately supply that. There is no information in the record indicating that Central Lincoln PUD has confirmed the existing service is sufficient; however, the Planning Commission finds that it is feasible that sufficient power can be provided to the site to satisfy the grow operation's needs since the PUD has substantial infrastructure in the area. The applicant will need to confirm with Central Lincoln that the existing service to the warehouse is adequate for this use prior to occupancy.

5. Given the above, the Planning Commission concludes that the public facilities can adequately accommodate a production use of this nature.

B. Criterion #2. The request complies with the requirements of the underlying zone or overlay zone.

1. This criterion addresses special requirements of the underlying or overlay zone beyond the standard zoning ordinance requirements.

2. The production of marijuana (i.e. growing) is considered to be a light-industrial use provided it is wholly contained within a structure (NMC 14.03.060(D)(2)). The applicant proposes to conduct the grow operation inside an existing warehouse building, consistent with this requirement. The Commission finds that a condition of approval is needed stipulating that no portion of the grow operation is to be conducted outside of the building, so that current and future operators are aware of this limitation.

3. Given the above, the Planning Commission concludes that this criterion is satisfied.

C. Criterion #3. The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.

1. This criterion relates to the issue of whether or not the proposed use has potential "adverse impacts" greater than existing uses and whether conditions may be attached to ameliorate those "adverse impacts." Impacts are defined in the Zoning Ordinance as the effect of nuisances such as dust, smoke, noise, glare, vibration, safety, and odors on a neighborhood.

2. The applicant explains that the property will allow them to produce indoor marijuana. They are seeking approval from the Oregon Liquor Control Commission (OLCC) for a Micro Tier II canopy size, which allows up to 1,250 square feet of warehouse space to be dedicated to growing marijuana plants. The property has eight parking spaces to accommodate employees or other contractors that will be needed. The applicant indicates that the grow site will not have an adverse impact on nearby properties because they will only allow authorized people on the premises. To control the odor, they will use carbon filters. This will remove contaminants and impurities from the air using chemical absorption.

3. The applicant further explains that the goal is to produce 90% of their own product with a recreational producer's license issued by the OLCC. Their objective is to harvest three to four times a year. In order to keep a consistent cycle, there will be three rooms; the vegetative room, the flower room, and the drying room. The vegetative room is where the immature plants are grown to fit the designated canopy area before being moved into the flower room. The drying room is where the product will hang and cure until it is completely finished.

4. The applicant notes that the product will be grown using the most efficient and safest lamps available. They will use a commercial air conditioner to help imitate the environment that the plants need to produce top-quality flower. The product is an organic, and there are no added supplements or pesticides to improve the outcome.

5. The property owner noted in her letter of August 16th that existing uses in the vicinity include a car collision center, a contractor, a retail/screen-printing manufacturer, a retail/warehouse baked goods facility, a mini warehouse facility with a number of retail businesses (Platt Electric and Aboveboard Electric), a pet daycare, and a sheet metal shop. The owner states that all of these uses cause considerably more traffic and noise than this proposed use. This use will be unobtrusive in that there will be no visible signs from the outside of what is being produced there, and only three or four employees will be parking in the designated parking lot. Further, there will be no building modification from the outside. It will remain unchanged from its current configuration.

6. Given the above, the Planning Commission concludes that this criterion has been satisfied.

D. Criterion #4. A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

1. As stated above, the owner notes that no changes will be made to the exterior of the building.

2. Given the above, the Planning Commission concludes that this criterion has been satisfied.

OVERALL CONCLUSION

Based on the application material, the Planning Staff Report, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate compliance with the criteria for a conditional use permit found in Section 14.34.050 of the Newport Municipal Code (NMC); and, therefore, the requested conditional use permit to operate a recreational marijuana grow facility can satisfy the approval criteria for a conditional use and is hereby approved with the imposition of the following conditions of approval:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the staff report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.

2. The production (i.e. growing) of marijuana shall be wholly contained within the existing building.
3. The applicant shall confirm with the Central Lincoln PUD that existing service to the warehouse is adequate prior to occupancy. Any changes to the electrical service to the exterior or interior of the building shall be performed in accordance with the State of Oregon Electrical Specialty Code and may be subject to a City of Newport electrical permit.